Supreme Court, U.S.
FILED

(3)

NO. 97-86 JUL 14 1997

OFFICE OF THE CLERK

In the
Supreme Court of the United States

OCTOBER TERM, 1997

ROBBIE A. VIATOR, DONIE R. HARMON, PAMELA S. BARBRY, RICHARD D. KEITH; PATRICIA DOUGLAS; ANGELA ROMERO; DONALD FONTENOT; GERALD LEE; ODELIA LOUISE TATE; DINA LOPEZ; NANCY H. BIMLE; MICHAEL JOSEPH TRAHAN; ANGELA R. LOPEZ; STEVEN PAUL JOHNSON; EVERETT PAUL MARSHALL; GARY CHESTER; KEVIN B. MATTE; CYNTHIA L. ROUGEAU; DAVID LEE PATTON; BRADLEY FONTENOT: TRACY BARNES: FRANK BERLIN: AND KATHLEEN CRICH
Individually and on behalf of all persons similarly situated
Petitioners

V.

DELCHAMPS, INCORPORATED
Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

APPENDIX VOLUME II

SUBMITTED BY:
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PETITIONERS

SUBMITTED BY:
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67 pp

APPENDIX H

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

Plaintiff's Exhibit P-4

ROBBIE A. VIATOR, PAMELA S. BARBRY, DONIE R. HARMON, Individually and on Behalf of All Persons Similarly Situated	:	CIVIL ACTION NO. 95-0797 JUDGE TRIMBLE MAGISTRATE
VERSUS	:	JUDGE WILSON
DELCHAMPS, INC.	:	

AFFIDAVIT OF ROBBIE A. VIATOR

STATE OF LOUISIANA
PARISH OF CALCASIEU

BEFORE ME, the undersigned authority, personally came and appeared ROBBIE A. VIATOR, who, upon being sworn, deposed and said as follows:

1.

He is a plaintiff in the above captioned case.

2.

He has personal knowledge of the facts set forth in this affidavit.

3.

On February 6, 1995, he attended a meeting at the former Delchamps, Inc. #105 store (Highway 14, Lake Charles). Present with him at this meeting were other employees of the former Delchamps, Inc. #105 store and employees of both the former Delchamps, Inc. #104 store (Nelson Road, Lake Charles) and the formerDelchamps, Inc. #106 store (Maplewood Drive, Sulphur).

4.

At the meeting held on February 6, 1995, it was verbally announced that the Delchamps, Inc. stores in greater Lake Charles area would be closed as of February 25, 1995. Among those representing Delchamps, Inc. at the meeting were Hugh VanHooser, Tom Trebesh, and Wayme Wiggins.

5.

A few days after the meeting on February 6, 1995, he and other former Delchamps, Inc. #105 store employees were verbally informed by Bryan Bradley, store manager of former Delchamps, Inc. #104, #105 and #106 stores, that although the then Delchamps, Inc. #105 store would close its doors on February 25, 1995, it would be necessary that employees work after the date of closure for an unspecified period of time to complete merchandise transfers.

6.

The actual date the former Delchamps, Inc. #104, #105, and #106 stores closed was February 25, 1995; however, the last date hourly employees worked at the former Delchamps, Inc. #105 store was February 27, 1995. The last date he worked at the former Delchamps, Inc. #105 store was also February 27, 1995.

7.

He was never given written notice of Delchamps, Inc.'s closing of the stores in the greater Lake Charles area or of his simultaneous lay-off in connection with the closures.

8.

He knows of no employee of the former Delchamps, Inc. #104, #105, or #106 stores who received written notice of the store closures in the greater Lake Charles area or simultaneous layoffs in connection the closures.

9.

He was told by Bryan Bradley, store manager of former Delchamps, Inc. #104, #105, and #106 stores, that the transfers offered to employees required that the employees move from the greater Lake Charles area.

10.

The following is a list of sites to which some employees of the former Delchamps, Inc. #104, #105, and #106 stores

transferred to and the approximate distances from Lake Charles to the city of each site (using Rand McNally Road Atlas):

Store#	City	Approximate Distance from Lake Charles in Miles
35	Tuscaloosa	544
97	Opelousas	96
107	Abbeville	99
109	Crowley	53
118	LaPlace	185
123	Lafayette	76
128	Baton Rouge	125
307	Tuscaloosa	544

11.

All of these possible transfer sites were beyond the commuting distance allowed by Delchamps, Inc.

12.

Prior to closure, whenever there was a shortage of a stock item at the then Delchamps, Inc. #104, #105, or #106 stores and the item was not expected to be restocked in the immediate future through stock receiving, it was customary practice to utilize stock surplus from one of the other stores in the greater Lake Charles area.

13.

Prior to closure, whenever there was a shortage of personnel at the then Delchamps, Inc. #104, #105, or #106 stores, it was customary practice to utilize temporarily personnel from one of the other stores in the greater Lake Charles area.

14.

The employees of the former Delchamps, Inc. #104, #105, and #106 stores were non-union.

/s/ Robbie A. Viator
ROBBIE A. VIATOR

SWORN TO AND SUBSCRIBED before me this 18th day of January, 1996, at Lake Charles, Louisiana.

/s/McCain
NOTARY PUBLIC

APPENDIX I

DELCHAMPS, INC.
PLAN WORKSHEET FOR FISCAL YEAR 1995
FISCAL 1994 PLAN, ANNUALIZED YEAR TO DATE, AND MOST RECENT 12 MONTHS
SALES (000) - CONTROLLABLE EXPENSES WHOLE DOLLARS

LOCATION: 104

DEF EXHIBIT B

A-104

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
SALES													
Grocery													
'95 Plan	353	289	287	362	300	302	351	251	275	348	296	296	3748
Pri. 12 Mo.	349	288	283	346	288	300	346	271	275	354	286	357	3745
Ann. '94	350	280	280	350	280	280	350	280	280	350	280	280	3640
Plan '94	340	258	284	360	300	300	350	295	295	360	296	296	3734

LOCATION: 104

ACCOUNT NAME / MARKET	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
'95 Plan	82	64	68	80	61	72	82	64	64	78	57	57	829
Pri. 12 Mo.	79	63	66	82	73	70	79	62	64	83	65	81	866
Ann. '94	80	64	64	80	64	64	80	64	64	80	64	64	832
Plan '94	67	47	56	78	61	61	72	56	56	78	57	57	746
Produce													
'95 Plan	43	36	35	45	36	32	42	33	31	38	34	34	439
Pri. 12 Mo.	40	35	32	37	28	29	37	30	31	42	37	43	420
Ann. '94	40	32	32	40	32	32	40	32	32	40	32	32	416
Plan '94	43	30	34	43	36	36	43	34	34	43	34	34	444
Deli/Bake													
'95 Plan	17	14	14	17	17	16	16	12	12	13	14	14	176
Pri. 12 Mo.	16	14	13	17	13	14	18	14	13	17	14	17	181
Ann. '94	15	12	12	15	12	12	15	12	12	15	12	12	156
Plan '94	17	10	14	17	17	17	14	14	14	17	14	14	179

LOCATION: 104

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Seafood													
'95 Plan													
Pri. 12 Mo.													
Ann. '94													
Plan '94													
H & BC													
'95 Plan	21	13	15	17	12	22	21	12	17	18	13	13	198
Pri. 12 Mo.	16	13	14	22	19	20	20	16	17	20	16	16	210
Ann. '94	20	16	16	20	16	16	20	16	16	20	16	16	208
Plan '94	14	11	12	16	12	12	16	13	13	16	13	13	161
Floral													
'95 Plan	6	3	5	6	4	8	6	4	6	3	4	4	59
Pri. 12 Mo.	4	3	4	6	4	6	5	9	7	7	8	5	67
Ann. '94	5	4	4	5	4	4	5	4	4	5	4	4	52
Plan '94	5	4	4	5	4	4	5	4	4	5	4	4	52

LOCATION: 104

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Total Sales													
'95 Plan	522	419	424	527	430	452	518	410	405	498	418	419	5442
Pri. 12 Mo.	504	415	412	509	426	439	505	402	407	522	426	518	5487
Ann. '94	510	408	408	510	408	408	510	408	408	510	408	408	5304
Plan '94	486	360	404	519	430	430	500	416	416	519	418	418	5316
Pri. 12 Mo.	132-	155-	17-	122-	263-		77-	32-	287-	303-	168-	15-	1571-
Ann. '94	140-	112-	112-	140-	112-	112-	140-	112-	112-	140-	112-	112-	1456-
Plan '94	200-	200-	200-	200-	200-	200-	200-	200-	200-	200-	200-	200-	2400-
Bad Ck. Coll.Fees													
'95 Plan	400-	406-	480-	400-	430-	400-	400-	400-	400-	400-	425-	425-	2300-
Pri. 12 Mo.	391-	554-	375-	450-	310-	285-	265-	450-	195-	495-	240-	495-	4605-
Ann. '94	435-	348-	348-	435-	348-	348-	435-	348-	348-	435-	348-	348-	4524-
Plan '94	400-	400-	400-	400-	400-	400-	400-	400-	400-	400-	400-	400-	4800-

LOCATION: 104

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Bad Ck. Coll.Expse													
'95 Plan	178	132	148	180	150	155	180	140	135	170	145	145	1858
Pri. 12 Mo.			569	226	162	143	235	186	125				1646
Ann. '94	210	168	168	210	168	168	210	168	168	210	168	168	2184
Plan '94	178	132	148	190	157	157	183	152	152	190	153	153	1945

Total Cont. Expense	JUL	AUG	SEP	OCT	NOV	DEC	
'95 Plan	59,004	46,220	45,466	59,065	45,686	47,704	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	58,981	45,370	45,395	59,548	45,412	45,433	603,198

	JUL	AUG	SEP	OCT	NOV	DEC	
Pri. 12 Mo.	53652	44174	44576	56637	43957	45792	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	55167	43160	42207	54852	43829	54393	582,396

LOCATION: 104

	JUL	AUG	SEP	OCT	NOV	DEC	
Ann. '94	55035	44028	44028	55035	44028	44028	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	55035	44028	44028	55035	44028	44028	572,364
	JUL	AUG	SEP	OCT	NOV	DEC	
Plan '94	56576	43422	46712	58186	48726	49341	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	57423	46770	46770	59101	47119	47219	607,365

DELCHAMPS, INC.
PLAN WORKSHEET FOR FISCAL YEAR 1995
FISCAL 1994 PLAN, ANNUALIZED YEAR TO DATE, AND MOST RECENT 12 MONTHS
SALES (000) - CONTROLLABLE EXPENSES WHOLE DOLLARS

LOCATION: 105

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
SALES													
Grocery													
'95 Plan	234	187	187	234	187	187	234	187	234	234	187	187	2479
Pri. 12 Mo.	342	277	272	288	224	223	251	191	186	336	271	346	3208
Ann. '94	290	232	232	290	232	232	290	232	232	290	232	232	3016
Plan '94	384	310	305	379	308	322	378	298	310	381	308	314	3997

LOCATION: 105

ACCOUNT NAME / MARKET	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
'95 Plan	70	56	56	70	56	56	70	56	70	70	56	56	742
Pri. 12 Mo.	102	84	89	96	88	80	75	58	60	99	81	104	1017
Ann. '94	95	76	76	95	76	76	95	76	76	95	76	76	988
Plan '94	112	90	89	110	89	94	110	86	90	111	89	91	1161
Produce													
'95 Plan	27	22	22	27	22	22	27	22	27	27	22	22	289
Pri. 12 Mo.	41	35	32	32	23	23	27	21	20	38	34	40	366
Ann. '94	30	24	24	30	24	24	30	24	24	30	24	24	312
Plan '94	40	33	32	40	32	34	40	31	32	40	32	33	419
Deli/Bake													
'95 Plan	24	19	19	24	19	19	24	19	24	24	19	19	253
Pri. 12 Mo.	33	27	27	32	21	23	24	20	20	31	27	31	315
Ann. '94	30	24	24	30	24	24	30	24	24	30	24	24	312
Plan '94	34	28	27	34	27	29	34	26	28	34	27	28	356

LOCATION: 105

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Seafood													
'95 Plan	6	5	5	6	5	5	6	5	6	6	5	5	65
Pri. 12 Mo.	6	6	6	7	6	5	7	7	6	7	5	6	75
Ann. '94	5	4	4	5	4	4	5	4	4	5	4	4	52
Plan '94	7	6	6	6	5	6	6	7	6	7	5	6	73
H & BC													
'95 Plan	25	20	20	25	20	20	25	20	25	25	20	20	265
Pri. 12 Mo.	29	24	24	33	30	36	35	22	22	33	27	31	345
Ann. '94	35	28	28	35	28	28	35	28	28	35	28	28	364
Plan '94	37	30	30	36	30	31	36	29	30	37	30	30	386
Floral													
'95 Plan	4	3	3	4	3	3	4	3	4	4	3	3	41
Pri. 12 Mo.	4	3	3	4	3	4	3	6	3	5	7	4	49
Ann. '94	5	4	4	5	4	4	5	4	4	5	4	4	52
Plan '94	5	4	4	5	4	4	5	7	4	5	5	4	56

LOCATION: 105

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Total Sales													
'95 Plan	390	312	312	390	312	312	390	312	390	390	312	312	4134
Pri. 12 Mo.	557	456	453	492	394	395	423	324	317	550	452	562	5375
Ann. '94	490	392	392	490	392	392	490	392	392	490	392	392	5096
Plan '94	619	501	493	610	495	520	609	484	500	615	496	506	6448
Pri. 12 Mo.	580-	159-	362-	584-	184-	80-	159-	492-	55-	691-	517-	591-	4454-
Ann. '94	340-	272-	272-	340-	272-	272-	340-	272-	272-	340-	272-	272-	3536-
Plan '94	600-	480-	480-	600-	480-	480-	600-	480-	480-	600-	480-	480-	6240-
Bad Ck. Coll.Fees													
'95 Plan	585-	462-	462-	557-	462-	482-	557-	462-	557-	557-	462-	462-	6067
Pri. 12 Mo.	951-	787-	704-	753-	413-	270-	915-	500-	435-	855-	976-	771-	8330-
Ann. '94	735-	588-	588-	735-	588-	588-	735-	588-	588-	735-	588-	588-	7644-
Plan '94	1175-	940-	940-	1175-	940-	940-	1175-	940-	940-	1175-	940-	940-	12220-

LOCATION: 105

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Bad Ck. Coll.Expse													
'95 Plan	117	92	92	115	92	97	115	92	115	115	92	92	1226
Pri. 12 Mo.			591	221	156	128	206	130	102				1534
Ann. '94	195	156	156	195	156	156	195	156	156	195	156	156	2028
Plan '94	227	183	180	223	181	190	223	177	183	225	182	185	2359

Total Cont. Expense	JUL	AUG	SEP	OCT	NOV	DEC	
'95 Plan	75463	61537	60639	75338	60524	73162	
	JAN	FEB	MAR	APR	MAY	JUN	
	64180	71652	75338	76441	60434	60434	

	JUL	AUG	SEP	OCT	NOV	DEC	
Pri. 12 Mo.	81290	65560	67292	80233	64854	65718	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	78407	61169	62009	78306	63070	79316	847224

LOCATION: 105

	JUL	AUG	SEP	OCT	NOV	DEC	
Ann. '94	80320	64256	64256	80320	64256	64256	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	80320	64256	64256	80320	64256	64256	835328
	JUL	AUG	SEP	OCT	NOV	DEC	
Plan '94	87304	71934	69805	86223	70026	74204	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	86258	68634	70523	88095	70068	71234	914308

DELCHAMPS, INC.
PLAN WORKSHEET FOR FISCAL YEAR 1995
FISCAL 1994 PLAN, ANNUALIZED YEAR TO DATE, AND MOST RECENT 12 MONTHS
SALES (000) - CONTROLLABLE EXPENSES WHOLE DOLLARS

LOCATION: 106

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
SALES													
Grocery													
'95 Plan	364	291	283	283	228	228	283	226	226	283	226	226	3147
Pri. 12 Mo.	447	375	361	433	368	367	390	288	302	442	349	449	4572
Ann. '94	425	340	340	425	340	340	425	340	340	425	340	340	4420
Plan '94	428	396	386	476	400	420	487	384	345	423	328	324	4797

LOCATION: 106

ACCOUNT NAME / MARKET	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
'95 Plan	91	73	71	71	57	57	71	56	56	71	56	56	786
Pri. 12 Mo.	105	90	92	111	97	92	91	65	70	102	83	104	1102
Ann. '94	105	84	84	105	84	84	105	84	84	105	84	84	1192
Plan '94	96	86	88	106	96	95	112	83	74	96	70	70	1072
Produce													
'95 Plan	37	30	29	29	23	23	29	23	23	29	23	23	321
Pri. 12 Mo.	51	44	38	42	35	35	39	27	29	51	45	55	492
Ann. '94	45	36	36	45	36	36	45	36	36	45	36	36	468
Plan '94	42	40	37	46	35	37	47	38	36	46	32	32	468
Deli/Bake													
'95 Plan	22	17	17	17	13	13	17	13	13	17	13	13	125
Pri. 12 Mo.	31	26	25	30	23	24	25	18	18	28	25	30	303
Ann. '94	30	24	24	30	24	24	30	24	24	30	24	24	312
Plan '94	27	22	22	28	23	27	28	24	20	27	23	21	292

LOCATION: 106

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Seafood													
'95 Plan													
Pri. 12 Mo.													
Ann. '94													
Plan '94													
H & BC													
'95 Plan	16	13	12	12	10	10	12	10	10	12	10	12	139
Pri. 12 Mo.	16	14	16	23	21	24	20	14	15	21	17	17	220
Ann. '94	20	16	16	20	16	16	20	16	16	20	16	16	208
Plan '94	16	17	15	18	18	19	21	19	16	19	16	12	206
Floral													
'95 Plan	5	4	4	4	3	3	4	3	3	4	3	3	43
Pri. 12 Mo.	6	4	4	6	5	6	4	9	5	8	11	6	74
Ann. '94	5	4	4	5	4	4	5	4	4	5	4	4	52
Plan '94	5	4	5	6	5	7	6	11	5	8	10	4	76

LOCATION: 106

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Total Sales													
'95 Plan	535	428	416	416	334	334	416	331	331	416	331	331	4621
Pri. 12 Mo.	656	555	537	646	549	548	569	423	440	651	529	662	6763
Ann. '94	630	504	504	630	504	504	630	504	504	630	504	504	6552
Plan '94	614	565	553	680	577	605	701	559	496	619	479	463	6911
	160	128	125	125	100	100	125	99	99	125	99	99	1384
Pri. 12 Mo.	137-	135-	318-	91-	243-	219-	404-	599-	360-	220-	241-	366-	3333-
Ann. '94	320-	256-	256-	320-	256-	256-	320-	256-	256-	320-	256-	256-	3328-
Plan '94	260-	220-	190-	260-	220-	220-	260-	220-	220-	260-	220-	220-	2770
Bad Ck. Coll.Fees													
'95 Plan	268-	214-	208-	208-	167-	167-	208-	166-	166-	208-	166-	166-	2312
Pri. 12 Mo.	840-	540-	540-	453-	261-	445-	515-	580-	270-	786-	605-	654-	6489-
Ann. '94	570-	456-	456-	570-	456-	456-	570-	456-	456-	570-	456-	456-	5928-
Plan '94	360-	300-	300-	360-	300-	300-	360-	300-	300-	360-	300-	300-	3840-

LOCATION: 106

ACCOUNT NAME	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Bad Ck. Coll.Expse													
'95 Plan	160	128	125	125	100	100	125	99	99	125	99	99	1384
Pri. 12 Mo.			782	267	217	166	259	168	144				2003
Ann. '94	255	204	204	255	204	204	255	204	204	255	204	204	2652
Plan '94	225	207	202	249	211	221	257	205	181	227	175	169	2529

Total Cont. Expense	JUL	AUG	SEP	OCT	NOV	DEC	
'95 Plan	61218	49633	48925	56231	45093	45792	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	56334	45044	45059	57208	45139	45259	600935

	JUL	AUG	SEP	OCT	NOV	DEC	
Pri. 12 Mo.	63101	52127	51906	64563	50694	50802	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	59383	43993	45184	62419	51452	62669	658293

LOCATION: 106

	JUL	AUG	SEP	OCT	NOV	DEC	
Ann. '94	61770	49416	49416	61770	49416	49416	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	61770	49416	49416	61770	49416	49416	642408

	JUL	AUG	SEP	OCT	NOV	DEC	
Plan '94	61662	55156	55124	66886	56286	59174	
	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	68770	54622	50392	62016	48250	48064	686402

APPENDIX J

(p.1) ORIGINAL

DEPOSITION OF
WAYNE WIGGINS

ROBBIE, A. VIATOR, PAMELA S.
Plaintiff

VERSUS NO. 95-0797

DELCHAMPS, INC.
Defendant

UNITED STATES DISTRICT COURT

LAFAYETTE-OPELOUSAS DIVISION

WESTERN DISTRICT OF LOUISIANA

MARCH 18, 1996 1:00P.M.

AT THE OFFICE OF
VOORHIES & LABBE
700 ST. JOHN STREET
LAFAYETTE, LOUISIANA

NAT DOUGET COURT REPORTERS
Steno and Video Reporting
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Lake Charles, LA 70602-3226
318/433-0725 FAX 318/433/-5672
800/259-9900 FAX 800/259-5672

EXHIBIT E

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(p.2)

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the meat department. (p.7)

Q. So you began with Delchamps then, about 1981 or — what year?

A. Yes.

Q. And you've been employed with them ever since you got out of school?

A. Yes.

Q. Since you've been district manager, have you been district manager of what district, sir?

A. District eight (8).

Q. You were first promoted to that position when?

A. Four (4) years ago.

Q. You don't remember the month?

A. No, I do not remember the month.

Q. When you were store manager, sir, what store were you?

A. The last store manager, I was the store manager at West Covington, Louisiana.

Q. Who was the district manager before you in district eight (p.8)?

A. Jay Woodard.

Q. Is he with the Company still?

A. No.

Q. Mr. Wiggins, do you know that store number 104 and store number 106 and store number 105 in the (p.8) greater Lake Charles area were all leased first during the course of 1984?

A. No, I don't know the exact lease date. No.

Q. Do you know, sir, that when all three (3) of those stores were first opened that they were each thirty-three thousand, three hundred eighty-seven (3,387) square feet?

A. No, I do not know that.

Q. Do you know when those three (3) stores were first opened, whether they were all equipped with the same equipment and fixtures?

A. No, I do not know that.

Q. So, you don't know anything about the original leases of these three (3) stores?

A. No.

Q. Do you know, sir, what year there was an expansion of store number 105?

A. No.

Q. Mr. Wiggins, would it be a fair statement to say that the grocery business is a low profit margin type of business?

A. Yes.

Q. Can you tell me, sir, what the profit margin of Delchamps, Inc. is, on its grocery stores?

A. On just the grocery side or — we're looking at (p.9)twenty-five percent (25%) gross profit margin.

Q. No. I'm talking about what you net, the net profit.

A. I do not know that exact number.

Q. Okay. What do you mean by just on the grocery side? I'm talking about the whole operation.

A. I do not know the exact numbers as far as the whole operation.

Q. Have you ever heard anyone say that the net profit is one (1), maybe two percent (2%)?

A. We've — yes, I've heard that before, as far as pennies, making a penny on the dollar.

Q. That Delchamps, Inc. makes somewhere between one (1) cent and two (2) cents on a dollar, of sales?

A. I've heard that said before, yes.

Q. Who have you heard that said from?

A. Zone manager.

Q. And who is the zone manager?

A. At that time, Bill Kruse.

Q. An what time are we talking about?

A. Within the last year.

Q. Was that a meeting or something?

A. Basic conversation. (p.9)

Q. What was the context of that conversation?

A. I do not recall.
(p.10)
Q. Did he state that as being a historical percentage of what the profit on a dollar of sales was?

A. I don't remember exactly.

Q. Sir, do you know what the term shrinkage means in the context of a grocery operation?

A. Yes.

Q. Would you tell me what that term means?

A. Shrink has been explained to me in the past, as anything that was received through the back door that did not go through the check out.

Q. So, it's the difference between the product purchased by Delchamps and the product actually sold by Delchamps?

A. Yes.

MR. TETE:

Let's go off the record for a second.

I need to find something.

(OFF THE RECORD)

EXAMINATION BY MR. TETE: (p.10)

Q. Would it be a fair statement to say, sir, that one of your responsibilities as a district manager was to keep the shrinkage level to a minimum?

A. Yes.

Q. Do you know how many dollars of merchandise (stop)
(p.16)
Q. And it would be sometime in '92 that you became district manager?

A. Yes.

Q. In response to some interrogatories, we've been given a management guide. It's been marked as "Exhibit D" in

Response to Interrogatories. For purposes of this deposition, I'd like to mark it as "Exhibit #1", and ask you to review that for a moment.

A. (Reviewing document)

Q. Does this fairly state what your responsibilities as a district manager were?

A. Yes.

Q. Let's go over the various areas. Where it states that you're responsible for maintaining stores according to standards. What standards are we referencing?

A. Delchamps' standards as far as cleanliness, well stocked stores.

Q. Anything else? (16)

A. No, sir.

Q. In reference to carrying out sales plans, what were your responsibilities?

A. Reading it and following it, seeing that the store manager does.
(p.17)
Q. Expense control.

A. Any expense that the store may incur; controlling lights, whether it'd be overtime, any controllable expense.

Q. Controlling lights, what do you mean by that?

A. Well, you can cut a light off rather than leaving it on. It can help out. Whether it'd be supplies in a department.

Q. So you were responsible for keeping overtime down?

A. Yes. In my area.

Q. Okay. Any other examples of how you're responsible for expense control?

A. None that I can think of.

Q. Shrinkage control. How did you carry out your responsibility on shrinkage control?

A. We would check each invoice, have the store manager check it. I work directly with the store manager. Giving the store manager any type of assistance I could to make sure he did get everything that he was charged for in all departments and so forth, if he happened to have a shrink problem. Also, you know, making sure everything got rang up at the check out. Explaining to him what he might need to look for.
(stop)
(p.19)
the stores?

A. Hour to two (2) hours.

Q. Okay.

A. Depending on store conditions and what I had to cover

with each individual store manager.

Q. And what would you do during the course of this one (1) to two (2) hours?

A. We would walk the entire store, visit with any associates that were working in the store, just to say "Hello". I would check the store conditions, overall store conditions.

Q. And after walking the store, would you discuss with management what steps needed to be taken to bring the store in compliance with Delchamps' policies?

A. Yes.

Q. Would you review the schedule, the manpower schedule for a given period of time?

A. Yes, on occasions.

Q. Your responsibility included, according to this management guide, determining manpower requirements necessary to carry out the work; correct?

A. Yes.

Q. And your responsibility included recommending changes in manpower requirements? (stop)
(p.23)
A. Yes.

Q. Would it be a fair statement to say that Delchamps, Inc. incurs less unemployment tax by keeping the number of employees down and increasing the hours of each employee?

A. I'm not understanding what you're asking me.

Q. Would there be a higher unemployment tax cost associated with having two (2) part-time employees each work fifteen (15) hours as opposed to one (1) part-time employee working thirty (30) hours?

A. I don't know that.

Q. You don't know the answer to that?

A. No.

Q. You've indicated that if a part-time employee was only scheduled to work ten (10) to fifteen (15) hours at what you considered his home store, that that particular employee could work at one of the other stores in the greater Lake Charles area to get additional hours if there was a need in (p.23) that other store for some help; correct?

A. Yes.

Q. Tell me how that process would work whereby a part-time employee would be allowed to work in one of the other stores.

A. Another store manager may call that individual (p.24) store manager and say "Look, I had two (2) people quit today, do you have a part-time stock clerk you could send me to help

me finish my stock truck"?, until he hired someone else to replace that person at that store.

Q. Any other circumstances, sir?

A. It could happen just like that in any department.

Q. What about with respect to when personnel at one store were on vacation, not working for a period of time, would that be another instance of when a manager of one store in the greater Lake Charles area would call upon the manager of another store to allow personnel to come over?

A. Yes.

Q. And would the same hold true if the personnel at one store were absent from employment because of sickness?

A. Yes.

Q. I believe you stated another instance when a part-time employee would be allowed to work in one of the other stores in the Lake Charles area would be to accommodate a part-time employee's school schedule? (p.24)

A. No. That's not what I stated.

Q. Tell me what you stated again.

(p.26) preform business?

A. No.

Q. You don't agree with that statement?

MR. SCHWARTZ:

You need to answer audibly, Mr. Wiggins.

THE WITNESS:

I'm sorry?

MR. SCHWARTZ:

Yes or no.

A. Could you ask your question again? I mean, I'm not sure —

EXAMINATION BY MR. TETE:

Q. Yes. Strike that question. Aside from part-time personnel, were there circumstances under which full-time personnel employed in one of the stores in the greater Lake Charles area would work at another store in the greater Lake Charles area?

A. Yes.

(p.26)
Q. Under what circumstances did that occur, sir?

A. The same as we spoke above; sickness, vacation.

Q. An employee quitting?

A. An employee quitting, holiday.

Q. Holidays. That's true. In the grocery busines, I presume you stay open during most (p.27) holidays?

A. Yes.

Q. And Delchamps, does it close for any holidays?

A. Christmas, Thanksgiving in the past. It's based on each year, what we decide to do. Upper management makes that decision.

Q. Christmas, and what day did you say?

A. Thanksgiving.

Q. Were there certain departments in the stores in the greater Lake Charles area where the need to call upon the use of personnel from one of the other stores in the greater Lake Charles area was greater than other departments?

A. No.

Q. So this practice occurred pretty much across the board in all the departments?

(p.27)

MR. SCHWARTZ:

I'm going to object to the characterization of what Mr. Wiggins has testified to as its establishing practice.
Subject to the objection, you can answer the question.

EXAMINATION BY MR. TETE:

Q. This practice was pretty much across the board in all the departments?
(p.28)
A. Yes.

Q. In what departments is shrinkage of greater concern than other departments?

A. All of them. I can't give you one individual department. It's concerned with all of them. It's equal.

Q. I know from my bag boy days, sir, that you have a risk of greater shrinkage in certain departments as opposed to others, such as produce department, frozen foods, as opposed to can goods. Is that a fair statement?

A. No. The dollar amount is higher, based on your grocery department. Sixty-five percent (65%) of your business is in grocery.

Q. When you say grocery, you mean dry goods?

A. Dry goods.
(p.28)
Q. So, it's a concern all across the board?

A. Yes, sir.

Q. Okay. Now, to control shrinkage, would it be a fair statement to say that Delchamps, Inc. wants to assure that stores,

such as the stores in the greater Lake Charles area, do not order more goods than they're going to be able to sell?

A. Yes.

Q. Can you tell me what policies Delchamps, Inc. (p.29) has implemented in order to reduce the chance that more goods would be ordered than can be sold?

A. Order to fill your shelves.

Q. But isn't it true that in the grocery business, your ability to forsee what you're going to be able to sell is pretty much based on past experience and that past experience is not always going to provide you with a crystal ball to be able to know how much you need? Is that a fair statement?

A. Yes.

Q. So that by the very nature of the grocery business, they're going to be occurrences where more goods are ordered than can be sold?

A. Yes.

Q. And would it be a fair statement to say, sir, that sales at one store in the greater Lake Charles area may differ in (p.29) volume than at another store in the greater Lake Charles area in any given week?

A. Yes.

Q. And would it be a fair statement to say that the amount

of goods ordered by the stores in the greater Lake Charles area will vary in any given week?

A. Yes.

Q. So would it be a fair statement to say, sir, that Delchamps, Inc. would experience instances in (30)which one store in the greater Lake Charles area ordered too much goods and another store didn't order enough of that particular item?

A. Yes.

Q. And wouldn't it be a fair statement to say that on such occasions, arrangements would be made to transfer the overage at one store to the shortage of another store in the greater Lake Charles area?

A. Yes.

Q. And would there be any certain departments in which this practice would more commonly occur than others, or would it be across the board?

A. It would be across the board.

Q. Who at a grocery store in the greater Lake Charles who would be responsible for actually ordering goods?

A. The head stock clerk.

Q. Would the head stock clerk order the goods for the entire store or only for a certain department?

A. A certain department.

Q. So there would be a head stock clerk for each department in a store?

A. It'd be a department manager in each department.

Q. Is the department manager for each department, is he also the head stock clerk? (stop)
(32)
there. I don't recall the head stock clerk's name of 104. It's got a job code on here, but it's stock clerk on 106, Kenny Richard. But I'm must looking at a job code, the name doesn't ring a bell, but it does state that there was one there.

Q. Well, with the exception of the position of head stock clerk which I'm assuming from your testimony you're characterizing as — would you consider that a managerial position?

A. It would be a managerial position as well as any other ones on there, yes.

Q. With the exception of the head stock clerk position, would it be a fair statement to say that "Exhibit #2" which I'm attaching to the deposition, is a fair representation of the managerial organization of stores in the greater Lake Charles area, 104, 105, 106, in 1995?

A. Yes.

Q. Other than temporary assignments of an employee at one given store in the greater Lake Charles area at another store in the greater Lake Charles area, for the reasons you've already stated, would an additional reason be in order to pinpoint whether there was an excessive shrinkage in a given

(p.32]
store by movement of a certain employee to another for a (33)period of time, for whatever period, in order to ascertain whether that person was responsible for the excessive shrinkage?

A. Yes.

MR. SCHWARTZ:

Counsel, I was going to object to the question, because I didn't understand it.
He understands it.

A. I understand it.

EXAMINATION BY MR. TETE:

Q. And would you elaborate on the circumstance in which that would occur.

A. On occasion, we'd move one, for example, a produce manager, from one store to another based on maybe the sales were higher at one and the department manager just couldn't get a grasp of increase in sales, so we'd put him in a lower volume store to train them and develop them to bring them back up to a level without having to terminate somebody per say. Whereby putting them in a lower volume store, we could spend a little more time with them where it wasn't fast paced.

Q. That would be a temporary assignment?

A. Not necessarily.

(p.33)

Q. It could be a permanent assignment; it could be (34)a temporary assignment?

A. Yes.

Q. Okay, I take it, during the time that you were district manager of the area encompassing 104, 105 and 106, that Delchamps, Inc. would follow that policy with respect to those stores in the greater Lake Charles area?

A. Yes.

Q. Which store in the greater Lake Charles area had a greater volume during the period that you were district manager?

A. Sulphur, Louisiana, 106, from what I can remember.

Q. And next to Sulphur, which of the two (2) had the greatest volume?

A. 104 and then 105.

Q. So, if a manager in 106 was having a problem with ordering correctly, you've had instances while you were district manager where he would be moved to store 104 or 105, and presumably, the manager in that store would take the job at 106?

A. You're speaking store manager or —

Q. No. Manager of — like the produce manager or the market manager.

A. Yes.

APPENDIX K

MANAGEMENT GUIDE

EXHIBIT #1

AREA MANAGER — OPERATIONS DEPARTMENT

1. FUNCTION:

Supervises the operations of retail stores in his assigned territory in accordance with established policies and standards. Recommends changes in policy or procedures as circumstances warrant.

2. RESPONSIBILITY AND AUTHORITY:

A. *Area of Responsibility*

(1) Operation of Retail Stores
   (a) Maintain stores according to standards
   (b) Carry out sales plans
   (c) Expense control
   (d) Shrinkage control
   (e) Development of people

B. *Organization of Territory:*

(1) Determine manpower requirements necessary to carry out his responsibilities.
(2) Recommends changes in manpower requirements as circumstances may require.

C. *Responsibility for Personnal:*

(1) Maintains the work force.
(2) Guides subordinates in their development.
(3) Evaluates performance of subordinates and takes appropriate action to improve performance. (Discharge action subject to prior approval.)

D. *Cost Control:*

(1) Reviews all operational expenses in his territories and recommends corrective action.

(2) Checks utilizations of time equipment and materials. Follow up to eliminate waste.

(3) Recommends, for approval, any unusual expenditure deemed necessary.

3. RELATIONSHIPS:

a. *Reports to:* Zone Manager, Supermarket Operations

b. *Supervises:* Store Managers

c. *Other Relationships:*

(1) *Technical Specialist*

Request Zone Manager for assistance of technical specialist to help solve technical problems. Exchanges information during period of assignment.

(2) *Other Departments:*

Exchanges information with other departments, on matters concerning their area of specialization, as authorized by the Zone Manager.

(3) Maintains friendly relationships with government or other agencies, who contact him incident to the performance of his job.

EXHIBIT #2

MANAGERIAL ORGANIZATIONAL CHART

Delchamps Stores 104-105-106 Lake Charles, Sulphur

District Manager
104-105-106
WAYNE WIGGINS

Store Manager
104-105-106
BRYAN BRADLEY

Delchamps Store #104 4431 Nelson Rd. Lake Charles, LA 70606	Delchamps Store #105 3240 Hwy 14 Lake Charles, LA 70605	Delchamps Store #106 2227 Maplewood Dr. Sulphur, LA 70663

Asst. Manager
Everett P.
Marshall, III

Asst. Manager
Michael
J. Pierce.

Mark. Manager
Julius
Courville, Jr.

Pro. Manager
Donald J.
Fontenot

Deli/Bak.Mgr.
Angelia F.
Romero

Head Cashier
Dabrina D.
Cole

Asst. Manager
Randall G.
Martens

Asst. Manager
Charles D.
McVey

Mark.Manager
Wesley A.
Schirmer

Pro. Manager
Vickie H.
Pousson

Deli/Bak.Mgr.
Dina E.
Lopez

Head Cashier
Gail L.
Reimer

Asst. Manager
Carl Fontenette

Asst. Manager
Michael J.
Trahan

Mark.Manager
Kenneth R.
Cole

Pro. Manager
Steven P.
Johnson

Deli/Bak.Mgr.
Nancy S.
Bimle

Head Cashier
Tabetha A.
Stutes

DELCHAMPS, INC. - STORE DIRECTORY

PR1390
TIME 7.37.53

As of 03/02/95

AREA	AREA NAME	AREA MANAGER	STORES
01	AREA I	Ricky Carrell	2,3,4,5,7,8,12,13,14,17,19,20,21,22,23,25,26, 27,28,29,31,32,33,54,112,302,303
02	AREA II	Kevin Burckhardt	6,10,11,15,16,18,34,35,36,37,38,39,46,51, 306,307
03	AREA III	Earl Cartwright	40,41,42,43,44,45,47,48,50,53,56,57,58,59, 212,240,242,243,244,245,247,249,250,253, 256,257,301,340
04	AREA IV	Rick Locke	9,24,55,60,62,64,67,68,69,74,78,80,82,111, 120,122,124,360,362,363,364,365

DELCHAMPS, INC. - STORE DIRECTORY

PR1390
TIME 7.37.53

As of 03/02/95

(continued) Page 9

AREA	AREA NAME	AREA MANAGER	STORES
05	AREA V	Johnny Smith	70,71,72,73,77,81,83,89,90,91,93,94,98,99,100, 103,116,118,121,127,128
06	AREA VI	Wayne Wiggins	86,88,92,96,97,101,102,104,105,106,107, 108,109,110,113,114,115,123,125,126
07	AREA VII	H. Van Hooser	305

APPENDIX L

Exhibit D-17

WE'VE GOT SOMETHING THAT'S MAKING ALL OTHER FOOD STORES SEE RED.

EVERYDAY
MINIMUM PRICING
ABSOLUTELY LOWER PRICING!

It's working. Delchamps customers all over this area are already discovering they have the minimum total food bill every week. That's because the New Delchamps doesn't have weekly specials that keep your total food bill high.

Instead, we have Everyday Minimum Pricing, which gives you absolutely lower pricing on every item, every day. Our shoppers like our way of doing business so much, some or our competitors are seeing red. Maybe someday they'll see the light.

THE NEW Delchamps Super Stores

We're going to change your mind about how to save on food. 24 hours everyday.

Hwy. 14	4431 Nelson	2227 Maple.
Prien Lk. Rd.	Road	Drive
Oak Park Sq.	Country Club	Maplewood
	Plaza	Plaza/Sulphur

EXHIBIT M

EDMONDSON REPORTING & VIDEO

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

ROBBIE A. VIATOR; PAMELA S. BARBRY; DONNIE R. HARMON, individually and on behalf of all persons similarly-situated,	)	
Plaintiffs,	)	Civil Action No.:
vs.	)	CV 95-0797
DELCHAMPS, INCORPORATED	)	
Defendant.	)	

DEPOSITION OF BRYAN M. BRADLEY

EXHIBIT F

(10)
A. Correct.

Q. But all three stores opened in about the same time frame of within a year of each other; is that correct?

A. 104 opened sometime in '84; 106 was before the holidays; and 105 was after the new year.

Q. 106 was after the Thanksgiving holidays you're talking about?

A. I don't recall exactly.

Q. So the three stores opened within a matter of months of one another?

A. Yes.

Q. And you say it was only a couple of months before you were moved into a managerial-type position; is that correct?

A. Correct.

Q. Now, Delchamps has previously provided some information which indicates that you've worked at Store 106, Store 105, and Store 104, all in the Greater Lake Charles area; is that correct?

A. Correct.

Q. The question I want to ask you, Mr. Bradley, if you know the answer, is why were you (stop)
(16)
A. I transferred to 106 on2/17. This second date is correct, but it shows me goine to 105, and that's incorrect.

MR. TETE: Let's go off record a second.
(Discussion held off the record.)

Q. (BY MR. TETE) Let's look then, once again, at Exhibit No. 1, and I believe your testimony had been that it correctly shows the date that you started as being December 17, 1984.

But you're stating that you started at Store 104, and so this incorrectly lists you as working at Store 106?

A. Yes.

Q. How long did you work at Store No. 104 before you—

A. To this date.

Q. And let the record reflect you're pointing to February 17 of '85, correct?

A. Yes.

Q. At that time, you transferred to what store?

A. 106 from 104.

Q. So you worked just a couple of months at (17)104 before you moved to 106?

A. Do you have the date that 105 opened?

Q. No.

A. Okay.

Q. You stated after the new year.

A. I believe it was February 17 or approximately there that 105 opened. So this date would be the date that I did go to 105.

Q. So the error in the answers is that it shows you originally working at Store 106; whereas, your testimony is you originally worked at Store 104?

A. Correct.

Q. So you worked at Store 104 a couple of months before you were moved to Store 105?

A. Correct.

Q. And again, Store 105 is the store located—

A. Highway 14.

Q. Okay. What was the reason that you were moved after only a couple of months?

A. I was hired at 104 as a meat cutter, and when they opened 106, I went there for grand opening.

Q. You mean 105?
(18)
A. No. I went to 106 after 104.

Q. So in the two months—in the first two months that you worked for Delchamps, what you're basically telling me is you worked at all three of the stores in the Greater Lake Charles area?

A. Correct.

Q. First, at Store No. 104, which is on Nelson Road, correct?

A. Yes.

Q. And then you moven to 106, which is in the Sulphur area?

A. Correct.

Q. And then you moven to Store No. 105, which is the one on Highway 14?

A. Correct.

Q. And then according to these answers, am I correct that it was just over a month, and you were once again moved and this time to Store 106?

A. From 105, yes.

Q. So in the first four months of employment, you had transferred three times; is that correct?

A. Yes.
(19)
Q. Now, was the reason for these transfers so that you were placed where your employer believed the employer needed you?

A. Correct.

Q. How long did you hold the position as manager in the meat market?

A. Approximately two years, I believe.

Q. According to these answers, you were transferred, once again, to Store 104 in April of 1986; is that correct?

A. I don't really remember the date that I was transferred back to 104; I know I was.

Q. Sometime in 1986?

A. I don't even remember the year.

Q. Whenever you were transferred back to Store 104 once again, what was the reason for that transfer?

A. As per company needs.

Q. Was it common practice in your years of employment with Delchamps in the Greater Lake Charles area for employees to be transferred indefinitely—not a temporary transfer, just indefinite transfers—to other stores in the Greater Lake (20)Charles area?

A. I have seen that done.

Q. Can you tell me whether it is more common for such transfers of employees in the Greater Lake Charles area amongst stores in that area to occur in certain departments or at a manageral level as opposed to hourly employee-type positions?

A. Would a salaried person be more likely to be transferred that an hourly person?

Q. Yes.

A. I don't think that would necessarily be true.

Q. So when you state that you have seen transfers occur among employees in the Greater Lake Charles area, you're not limiting that answer to persons; such as, yourself, that held managerial positions, correct?

A. It could be anybody.

Q. you stated that you held that position of market manager for about two years.

What position were you promoted to after that time?

A. Assistant store manager.
(22)
A. Shrink would be the loss of what you bought compared to what you sold.

Q. Thank you.

Now, let met show you an advertisement that I'm going to mark as exhibit No. 2 from Lake Charles American Press, dated January 28, 1987.

(Plaintiff's Exhibit No. 2 marked for identification.)
(A copy is attached.)

MR. TETE: Let me show you first. I copied some additional pages to satisfy your need for a date.

(Witness examines document)

Q. (BY MR. TETE) Now, this ad is touting the freshness of Delchamp's produce; is that a fair characterization?

A. Correct.

Q. And in it, it has a comment, "It's so fresh, it glistens. If it didn't, out it would go. Because it's my job to see that you get only the best produce."

Now, this comment, "It's so fresh it glistens. If it didn't, out it would go," is what(stop)
(28)
the need for the documentation that would be necessary if you did not anticipate having that product returned in kind?

A. That would be correct.

Q. Am I correct that both practices did, in fact, occur over the years that you were employed in the Greater Lake Charles area; that, namely, where there transfers of product with anticipation of product being returned in kind and transfers of product where you did not anticipate product being returned in kind?

A. I've seen it happen both ways.

Q. Now, would it be a fair statement to say that the person in charge of each department in a Delchamps store would be the person most involved in such transfers?

A. Either thhe department head or manager on duty

Q. A department head could make such a trnasfer on his own authority?

A. He would probably confer with the store manager—her or she.

Q. But the ultimate decision would rest(stop)
(39)
A. Many times he was asked?

Q. Yes. To run to Lake Charles 104 and 105 to pick up stock items; such as, icing, produce, milk, and canned goods.

A. He was probably asked on occasion, but, mostly, when we did transfers, we would take volunteers, which most everybody wanted to volunteer to have a few minutes to go pick something up to be out of the store, just to get away for a few minutes.

He was probably asked or volunteered. I don't know how many of which.

Q. Now, at some point, you became manager of all three stores in the Greater Lake Charles area; is that correct?

A. Correct.

Q. When did you become store manager of all three stores in the Greater Lake Charles area?

A. I don't recall the exact date, but I'm going to guess November.

Q. Was it before Thanksgiving?

A. I don't know.

Q. Your best guess, it was in November of 1994?[stop] (p.60)

A. I don't believe anybody had asked me to sign anything about this case to my knowledge.

Q. (BY MR. TETE) Am I correct, Mr. Bradley, that all three of those stores in the Greater Lake Charles area opened at about the same time, and they all closed at the same time?

A. I believe they all closed the same day and opened different days, different months, all within a six-month period.

Q. And am I correct that throughout the years that you worked for Delchamps in the Greater Lake Charles area, you worked on different days at different stores?

A. During the same week?

Q. Answer it however you want.

A. Say it again?

Q. Am I correct that throughout years—well, let me strike that.

Am I correct that throughout the years you worked for Delchamps in the Greater Lake Charles area you were called upon to work at each of the stores in the Greater Lake Charles area?

A. At one time or another, I worked at all(61) three.

Q. That was according to company need?

A. Correct.

Q. And am I correct that, because you worked at all three stores in the Greater Lake Charles area, you got to know the people that worked in each of those stores?

A. Yes, I knew everybody.

Q And am I correct that, in fact, you ended up working with employees at one store in the Greater Lake Charles area that you had previously worked with those same employees at another store in the Greater Lake Charles area?

A. Yes, I believe I did.

MR. TETE: Give us two minutes. We might be through.

(Discussion held off the record.)

Q. (BY MR. TETE(The temporary transfers of employees included managerial positions, correct?

A. I would say all.

Q. Do you know whether in the last seven months of Delchamps' operations in the Greater Lake Charles area whether any managers or managerial(62) positions in the Greater Lake Charles area—strike that.

Do you know whether any persons holding managerial positions in the Greater Lake Charles area worked at more than one store in the Greater Lake Charles area in the last seven months or operations?

A. Other than myself?

Q. Other than yourself.

A. Did any other salaried managers or managers, period, work at any other stores?

Q. In the Greater Lake Charles area and I'm just talking about the last seven months?

A. In a permanent or temporary basis?

Q. Temporary basis.

A. I don't recall right offhand.

Q. Let me ask you this. You still work for Delchamps; is that correct?

A. Correct.

Q. What position do you presently hold?

A. Store manager.

Q. That's here in Tuscaloosa, Alabama?

A. Yes.

Q. Since leaving the Greater Lake Charles(stop)

EXHIBIT N

Exhibit O

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

BOBBIE A. VIATOR, ET AL	*	
	*	
Plaintiffs,	*	CIVIL ACTION
	*	
VERSUS	*	NO. 95-0797
	*	
DELCHAMPS, INC.	*	JUDGE TRIMBLE
	*	
Defendant.	*	MAGISTRATE
	*	JUDGE WILSON
* * * * * * * * * * * *		

AFFIDAVIT OF DINA LOPEZ

STATE OF LOUISIANA

PARISH OF CALCASIEU

BECAUSE ME, the undersigned Notary Public, personally came and appeared, DINA LOPEZ, who, after being duly sworn did depose and state:

1.

Affiant is a party in the above captioned case.

2.

This affidavit is based upon Affiant's own personal knowledge.

3.

I worked as a deli/bakery clerk for Delchamps from January of 1986 until October of 1993 and after that time worked as deli/bakery manager until Delchamps closed in February of 1995.

4.

Although I was working primarily at Store No. 104, at the end of 1987 or beginning of 1988, I went to Store No. 105 to help for two to four weeks, maybe longer, because that were shorthanded. In 1992, I went to Store No. 106 while their manager was cut. In 1993, I went to Store No. 105 to help because they were shorthanded.

5.

While working at Store No. 104, I transferred stock to 105 and 106, and also received stock from 105 and 106. We transferred stock when the store would run out or would not receive items. We called the others, Store 105 and 106 to help us out. Also, the produce and meat department and grocery department transferred merchandise. Sometimes, they would ask me to bring items to other stores. When they did it was such items as cases, boxes, buckets, etc.

6.

I do remember them transferring floor equipment.

7.

Also, when we had out yearly meeting, all stores in the greater Lake Charles area would have it together in one place at the same time. When we had our last meeting, the time they said we were closing, we had one big meeting together at the same time with Bryan Bradley who was store manager for all three stores at the same time.

/s/ Dina Lopez

DINA LOPEZ

THUS DONE AND SIGNED on this 22nd day of April, 1996, before me, Notary Public, in Lake Charles, Louisiana.

/s/ Leticia Welch

NOTARY PUBLIC

APPENDIX O

UNITED STATES DITRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

ROBBIE A. VIATOR, PAMELA S. BARBRY, DONIE R. HARMON, Individually and on Behalf of All Persons Similarly Situated	:	CIVIL ACTION, NO. 95-0797 JUDGE TRIMBLE
VERSUS	:	MAGISTRATE JUDGE WILSON
DELCHAMPS, INC.	:	

AFFIDAVIT OF KARLA B VIATOR

STATE OF LOUISIANA
PARISH OF CALCASIEU

BEFORE ME, the undersigned authority, personally came and appeared KARLA B. VIATOR, who, upon being duly sworn, deposed and said as follows:

PLAINTIFF'S
EXHIBIT
P6
All State Legal
Supply Co.

1.

She is the spouse of Robbie A. Viator, a plaintiff in the above captioned case.

2.

She has personal knowledge of the facts set forth in this affidavit.

3.

On August 31, 1995, she plotted the road miles between the former Delchamps, Inc. stores located in greater Lake Charles area in Louisiana, using her personal vehicle, and the results of said plotting are as follows:

From Store # and Location	To Store # and Location	Road Mileage
#105 Highway 14 - L.C.)	#104 Nelson Rd. L.C.)	5.4 (via 1-210)
#104 (Nelson Rd. - L.C.)	#106 (Maplewood Dr. - Sul.)	9.4 (via 1-210
#105 Highway 14 - L.C.)	#106 (Maplewood Dr. - Sul.)	12.0 (via I-210)
#106 (Maplewood Dr. - Sul)	#105 (Highway 14 - L.C.)	14.0 (via I-10 & Hwy. 14)

On January 18, 1996, she contacted the Clerk of Court offices for the 14th Judicial District Court, Calcasieu Parish, Louisiana, and the United States District Court, Western District of Louisiana, Lake Charles Division, and was advised that no suits (other than the above captioned suit) have been filed against Delchamps, Inc. in the years 1995 and 1996 in these courts concerning the same or similar facts or circumstances made the subject of the above captioned suit and that no suits whatsoever (other than the above captioned suit) have been filed against Delchamps, Inc. in the years 1995 and 1996 in these couts.

/s/ Karla B. Viator
KARLA B. VIATOR

SWORN TO AND SUBSCRIBED before me this 18th day of January, 1996, at Lake Charles, Louisiana.

/s/ Illegible
NOTARY PUBLIC